

**Speech-Language Pathology and Audiology Board**

1422 HOWE AVENUE, SUITE 3, SACRAMENTO, CA 95825

TELEPHONE: (916) 263-2666/ FAX: (916) 263-2668

www.slpab.ca.gov



**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
Kensington Park Hotel
450 Post Street
"Sherwood Room"
San Francisco, CA
November 15, 2002
MINUTES**

Members Present

Alison Grimes, M.A., Chairperson
Sherry Washington, M.A.
Bruce Gerratt, Ph.D.
Marcia Raggio, Ph.D.
James Till, Ph.D.
Rebecca Binge, M.A.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Candace Raney, Staff Analyst
Lori Newman, Staff Analyst
George Ritter, Staff Counsel

Members Absent

Vivian Shannon, M.A.
Paul Donald, M.D.

Guests Present

Susan Stark, M.S., CCC/SLP, Director, The Speech Pathology Group
Joseph Kanon, Supervisor, California Pacific Medical Center
Susan Langmore, Ph.D., University of California, San Francisco
Adrian Panton, Supervising Deputy Attorney General, Office of the Attorney General,
Health Quality Enforcement Section

I. Call to Order

Chairperson Grimes called the meeting to order at 9:10 a.m.

II. Introductions

Those present introduced themselves.

III. Approval of Meeting Minutes for May 10, 2002 - Committee Meetings and Full Board Meeting

The Board deferred approval of the May 10, 2002 Committee Meeting and Full Board Meeting minutes to the next Board meeting due to incomplete information provided in the board packets.

IV. Chairperson's Report (Alison Grimes)

Chairperson Grimes reported on her attendance at the most recent meeting of the Academy of Dispensing Audiologists Association. She explained that a primary topic of discussion at the meeting was the Health Insurance Portability and Accountability Act of 1996 (HIPAA). She stated that there appears to be a great deal of confusion on the part of licensed professionals regarding the mandates of HIPAA and how they affect the respective practices. She recommended that the Board develop and disseminate to all licensees information relative to HIPAA and how the mandates of HIPAA affect the practices of speech-language pathologists and audiologists as professionals.

V. Committee Reports

A. Continuing Professional Development Committee (Bruce Gerratt)

Committee Chairperson Gerratt stated that the Continuing Professional Development (CPD) Committee discussed many issues related to CPD. He explained that the committee discussed many options for revisiting the Board's procedure of approving course providers but not approving individual courses.

Mr. Gerratt stated that the committee decided to recommend to the Board that the issue of CPD be made part of the January 2003 meeting agenda.

Mr. Gerratt also stated that the committee was asked to review the Audina Hearing Instruments appeal for consideration as a CPD Provider. The committee reviewed Audina Hearing Instruments' request and decided to recommend to the Board that Audina Hearing Instruments be granted CPD Provider status.

M/S/C: Gerratt/Raggio

The Board accepted the report and recommendations of the Continuing Professional Development Committee.

B. Audiology Practice Committee (Rebecca Bingea)

Committee Chairperson Bingea stated that the Audiology Practice Committee discussed developing standards for pediatric audiology. She explained that this issue arose from a request by an audiologist consultant with the Department of Health Services, requesting the Board's assistance in developing guidelines to define the term "pediatric audiologist." The consultant is concerned about the demand for qualified pediatric audiologists arising from the increased number of infants being identified through the newborn infant hearing screening program. The concern is that many licensed audiologists may not have the expertise, experience, training, etc. necessary to treat pediatric clients. Ms. Bingea explained that the committee discussed the need for audiologists competent to serve this population.

Ms. Bingea stated that a specialty certification was discussed as a possibility to establish a population of competent professionals.

The committee decided to recommend to the Board that the Executive Officer further research the concern that was raised and provide clarification to the committee.

Ms. Del Mugnaio explained that because the need for special training in pediatric audiology is to produce qualified providers to serve under the Department of Health Services, Newborn Hearing Screening Program, that DHS would be the regulatory agency to formulate legislation with assistance from the Board.

Ms. Bingea explained that a related concern was also discussed in the Audiology Practice Committee regarding unprofessional conduct and/or fraud by an audiologist and the reporting mechanism utilized between state regulatory agencies. Ms. Del Mugnaio explained that the process for reporting suspected violations of the Speech-Language Pathologists and Audiologists Licensure Act for another state agency is the same as it is for a consumer. Basically, the matter needs to be reported to the Board in writing. If the complainant wishes to remain anonymous, they may do so.

Ms. Bingea stated that the committee also reviewed a draft document containing information compiled to date relative to the Board's Sunset Review. However, due to minimal information provided to Ms. Raggio prior to this meeting, she will redistribute the assignment listing. She requested that all board members submit their completed reports to her no later than December 31, 2002, preferably earlier. She will then compile a new draft document incorporating the board members' input to be presented at the January board meeting.

M/S/C: Raggio/Till

The Board accepted the report and recommendations of the Audiology Practice Committee.

C. Speech-Language Pathology Practice Committee (James Till)

Chairperson Till stated that the Speech-Language Pathology Practice Committee reviewed a request by the McGuire Program. The McGuire Program contacted the Board asking for assurance that the program would not be in violation of any California State laws if offered in the state of California.

Mr. Till explained that Board staff contacted Dr. Stanley Goldberg, Professor, Communication Disorders, San Francisco State University, to perform the task of evaluating the program to determine if the activities performed by the Program instructors constitutes the practice of speech-language pathology.

Mr. Till explained that Dr. Goldberg was unable to attend a seminar as it was cancelled. Dr. Goldberg did evaluate extensive materials available via the internet as well as other materials submitted to the Board. He explained to the committee that, although individuals performing aspects of the McGuire Program do not identify themselves as speech-language pathologists, there is substantial overlap between the McGuire Program's activities and specific activities performed by speech-language pathologists during the treatment of stutterers. Mr. Till also stated that the activities of the McGuire Program are not consistent with other support groups.

Based upon the expert analysis provided by Dr. Goldberg, the committee decided to recommend to the Board that a letter be sent to the McGuire Program offering no assurance that providing the McGuire Program in California would not be in violation of California laws.

M/S/C: Gerratt/Bingea

The Board accepted the report and recommendation of the Speech-Language Pathology Practice Committee.

VI. Executive Officer's Report (Annemarie Del Mugnaio)

A. Budget Update

Ms. Del Mugnaio explained that the budget update provided is current as of July 31, 2002. She stated that the board was successful in its endeavor to operate within the fiscal appropriation allowed for the fiscal year 2001-2002 while maintaining a low reversion rate. However, she reminded the Board that the fiscal year 2002-2003 budget will be extremely restrictive.

B. Website Update

Ms. Del Mugnaio stated that board staff has updated the board website to include a link to information relative to the Health Insurance Portability and Accountability Act of 1996. She stated that there were also some updated forms added to the website.

C. Strategic Plan

Ms. Del Mugnaio stated that a copy of the previously approved updated strategic plan was provided in the board packets.

D. Regulation Update (Required Professional Experience Temporary License)

Ms. Del Mugnaio stated that the proposed RPE temporary license regulations are currently pending final approval.

E. Legislation Update – (SB 1379, AB 1914, SB 2021, SB 2025, SB 1638, SB 1402, SB 2010, SB 1907, SB 1461, SB 1292, SB 2059, SB 2024) and Any Other Legislation of Interest to the Board

Ms. Del Mugnaio stated that an updated legislative chart was provided in the board packet.

Ms. Del Mugnaio stated that the following bills were enrolled and will take effect on January 1, 2003, AB 1914, SB 1379, SB 1402, and SB 2021. SB 2021 includes the Board's Sunset Review extension date as well as the authority for the Board to charge up to \$25.00 for license history certification letters. SB 1402 defines feeding and swallowing as advanced practices. SB 2025 is no longer applicable to our Board as the provisions relative to our Board were consolidated into SB 2021. In addition, SB 1907 was enrolled and will take effect on January 1, 2003 despite opposition by the Board.

Ms. Del Mugnaio stated that the following bills were unsuccessful, SB 1638, AB 2884, SB 1461, SB 1292, SB 2059, SB 2024. She explained that if the legislation relative to each of these bills is reintroduced in the new legislative cycle, Board staff will continue to monitor these issues.

F. Report on Status of the Occupational Therapy Board's Proposed Regulations for Feeding and Swallowing (Sherry Washington)

Ms. Washington explained that she attended the Occupational Therapy Board's subcommittee meeting on swallowing in June 2002 and a subsequent meeting in September 2002. She stated that the Occupational Therapy Board is in the process of drafting regulations relative to the scope of practice of occupational therapists. Ms. Washington stated that she is working with the Occupational Therapy Board to provide professional guidance relative to practice issues that may overlap with speech-language pathology.

Ms. Washington stated that at the September 2002 meeting, the focus of the OT Board was to define the term “advanced practice.” However, there are many issues that need to be addressed prior to the OT Board’s drafting regulatory language.

Ms. Del Mugnaio stated that the OT Board’s executive officer and legal counsel are arranging to observe an endoscopic swallowing evaluation in order to gain a greater understanding of the procedure.

VII. Licensing/Enforcement Statistical Reports (Lori Garrett/Candace Raney)

Ms. Del Mugnaio stated that the statistics provided include current licensing statistics as well as enforcement statistics through the end of the 2001/2002 fiscal year. In addition, the statistics include the rate of acceptance of attorney general cases wherein cases referred to the Attorney General’s Office result in disciplinary action taken against the licensee.

VIII. Implementation of Amendments Pursuant to SB 1379

The Board discussed implementation of SB 1379 specifically regarding the provisions relating to endoscopy. Chairperson Grimes assigned review of the provisions of SB 1379 relating to endoscopy to the Speech-Language Pathology Practice Committee to determine if there is a need for promulgation of regulations to further define or make specific the statute.

A. Equivalency Standards - Certificate of Clinical Competence

Ms. Del Mugnaio explained that the equivalency standards portion of SB 1379 enables the Board to require applicants who are ASHA certified and have noted deficiencies in state licensing requirements, to cure the deficiencies prior to the issuance of the license. Most often this occurs with individuals who have completed their Clinical Fellowship Year in California in a non-exempt setting and do not apply for the Required Professional Experience Temporary License. As of January 1, 2003, the applicants will be required to repeat the experience that was completed in violation of California laws and regulations.

Ms. Del Mugnaio stated that it will not be necessary to promulgate regulations relative to this issue.

B. Required Professional Experience Temporary License - Approval Process

Ms. Del Mugnaio explained that SB 1379 made changes to the existing law regarding the Required Professional Experience (RPE) Temporary License. Individuals completing their RPE for the purpose of state licensure must obtain a temporary license regardless of whether they are practicing in the public school or a private setting.

Ms. Del Mugnaio also stated that changes to the RPE setting, supervisor, or time-base no longer require prior approval by the Board. Changes to the RPE setting and supervisor may occur throughout the experience and then be recorded at the end of the experience on the verification of experience form. However, if at the end of the experience, the

individual has not met the supervision or work experience requirement, they would be required to rectify the deficiency.

Ms. Del Mugnaio stated that the changes to the law provide greater flexibility for the temporary license holder but also places a greater responsibility on that individual to ensure that all requirements are adhered to during the RPE plan.

C. Discussion of Options for Streamlining of RPE Process

Ms. Del Mugnaio explained that the Board is reviewing methods of streamlining the RPE process to reduce processing times. The Board discussed many possible methods for accomplishing this task. One of the areas discussed was the posting of RPE licenses on the Board's website upon issuance. This would eliminate the several day waiting period from issuance of the license to receipt of the license by the RPE candidate.

M/S/C: Till/Washington

The Board voted to post RPE licensing information on the Board's website upon issuance of the license.

IX. Review The American Speech-Language-Hearing Association's New Certification Standards for Speech-Language Pathology (2005) and Audiology (2007) and Discuss the Impact on State Regulation

Ms. Del Mugnaio explained that the Board needs to review ASHA's new standards for audiology and speech-language pathology and determine the impact those new standards will have on state regulation. Ms. Del Mugnaio recommended that this issue be assigned to the Licensing and Education Committee to determine if significant changes to state laws and regulations will be required. Ms. Del Mugnaio stated that she has been in contact with many other state boards that are facing the same issue and are examining their respective laws and regulations to identify any conflicts in national vs. state professional standards.

Ms. Del Mugnaio stated that the new standards focus on performance-based measures and outcomes that are difficult to enforce from a regulatory perspective.

Ms. Del Mugnaio stated that the committee would need to specifically review the Board's equivalency provisions to determine if the laws should remain in effect once the new national standards are implemented.

Ms. Del Mugnaio stated that the committee currently consists of the following members, Ms. Washington, Chair, Mr. Gerratt, Mr. Till, Ms. Shannon, and Ms. Raggio. Ms. Grimes also appointed herself to serve on the committee.

Ms. Del Mugnaio reminded the board members that the new standards for speech-language pathology will be effective in 2005 and 2007 for audiology. She recommended that the board begin addressing the matter in 2003 and suggested that the matter be placed on the agenda for Fall 2003.

The Board agreed with Ms. Del Mugnaio's recommendations and Ms. Grimes assigned the matter to the Licensing and Education Committee.

X. Discussion of Amendments to the Board's Complaint Disclosure Policy

A. Review Department of Consumer Affairs' Recommended Minimum Standards for Consumer Complaint Disclosure

Ms. Del Mugnaio explained that the Board's current complaint disclosure policy states that complaints are not released to the public prior to the filing of an accusation.

Ms. Del Mugnaio stated that the Department of Consumer Affairs has recently implemented Recommended Minimum Standards for Consumer Complaint Disclosure. This document recommends disclosure of complaint information at the point that a matter is referred to the Office of the Attorney General for review and possible disciplinary action.

Mr. Panton stated that he believes this would be a responsible action on the part of the Board to provide earlier disclosure and enhance consumer protection.

Mr. Ritter concurred and stated that there are several Boards within the Department that are proposing the same action.

Mr. Ritter stated that he would review the matter to determine if it is necessary for the Board to promulgate regulations relative to complaint disclosure.

M/S/C: Washington/Till

The Board voted to revise the Complaint Disclosure Policy, adopted August 10, 2001, as recommended.

B. Access to Citation Information on Internet

Ms. Raney explained that she is currently working with the Department on data extraction of citation information to provide the most current and accurate information possible. However, she stated that she has recently been made aware of an additional component of the tracking system that would give the Board greater control over the information released. She explained that she intends to pursue this option, but that it will delay the process by a few months.

Ms. Del Mugnaio stated that Ms. Raney will continue to work on this project and provide updates as necessary.

XI. Meeting Calendar 2003

Ms. Del Mugnaio reminded the Board of previous dates already set aside for future board meetings including January 16 & 17, 2003 to be held in Los Angeles and April 25 & 26, 2003, to be held in Sacramento. Scheduling of the Board's August board meeting was postponed until January 2003.

XII. Public Comment on Items Not on the Agenda

There were no additional public comments.

XIII. Announcements

A. Next Board Meeting is January 2003 in Los Angeles

BOARD CONVENED IN CLOSED SESSION

XIV. Closed Session (pursuant to Government Code Subsections 11126 (a)(1), (c)(3), and (e)(2)(C)(i)) - Proposed Decisions/Stipulations/ Other APA Enforcement Actions

A. Discussion of Executive Officer Return to Duty

B. Proposed Stipulation and Settlement for Public Reprimand In the Matter of the Accusation Against David M. Illich, AU 778

C. Default Decision and Public Reprimand In the Matter of the Public Reprimand Against Diane M. Kirchner, SP 3765

D. Discussion and possible action concerning potential litigation, enforcement actions and other related actions that may be taken in connection with possible unlawful business practices

BOARD RECONVENED IN OPEN SESSION

XV. Discussion of potential request for formal opinion by the Office of the Attorney General concerning patient referrals for free audiological services

Further discussion and a motion regarding this matter was deferred to the Board's January 2003 meeting.

XVI. Adjournment

There being no further discussion, Chairperson Grimes adjourned the meeting at 2:55 p.m.

Annemarie Del Mugnaio, Executive Officer